S.B. CIVIL WRIT PETITION NO.1544/2003.
(MUKH RAM JAT V. THE STATE OF RAJASTHAN AND OTHERS)

DATE OF ORDER: 1.4.2005

PRESENT.

HON'BLE MR. JUSTICE R.P.VYAS

Mr.G.K.Vyas, for Petitioner.
Mr.S.N.Tiwari, Deputy Government Advocate, for Respondents.

The instant writ petition is filed by the petitioner with a prayer that by an appropriate writ, order or direction the respondents may be directed to provide him appointment on the post of Gram Sewak from the date when his juniors were given appointment while taking into account the waiting list, in which his name figures at Serial No.1, with all consequential benefits.

Brief facts giving rise to the instant petition are that the petitioner is possessing the qualification of Higher Secondary and, as such, he is entitled to be appointed on the post of Gram Sewak. Therefore, in pursuance to the advertisement by the respondents for recruitment on the 30 posts of Gram Sewak, he submitted an application for appointment. He was called for written test by admission card (Annexure 1) by issuing Roll Number 3380.

The petitioner was declared successful in the said selection and his name was included in the reseve list at serial No.1. It is alleged that by resolution No.4/result sheet dated 24.3.2000 (Annexure 2), 15 persons were included in the merit list of

General Category, 6 candidates in the list of Other Backward Classes (OBC), 5 candidates in the Scheduled Caste category and 4 persons were included in the Scheduled Tribe category. It is further alleged that out of 30 vacancies, 2 persons did not join from the General category, because a ban vide letter dated 28.11.2000 (Annexure 3) for giving appointment was imposed by the State Government. The matter was referred to the Director, Panchayat Raj Department, Jaipur, for seeking sanction to provide appointment against two remaining vacancies, which fell vacant due to non-joining of the persons from the main list.

The petitioner was entitled to be considered for appointment as his name appeared at serial No.1, but all of a sudden, the Vikas Adhikari, Panchayat Samiti, Sardarsahar has issued appointment order to one Mahendra Singh, whose name was appearing at serial No.2 in the waiting list. Subsequently, the respondents issued another order of appointmemt of Govind Singh and Krishan Murari, whose names appear at serial Nos. 3 and 4 respectively, in the reserve list. The petitioner has submitted a copy of the appointment order of Shri Mahendra Singh (Annexure 4) in support of his submissions.

The aforesaid appointments were given as per the decision given by the Zila Parishad in pursuance to the selection made in the year, 2000.

It is submitted that name of the petitioner appears at serial No.1 of the reserve list and obviously, at the time of providing

appointments, against the unfilled vacancies, his case ought to have been considered, but his case not been considered and the persons having lesser merit, have been given appointment.

It is also submitted that out of 30 vacancies only 27 persons joined from the main list and rest of the three persons did not join, therefore, in the event of availability of the vacancies, due to non-joining of these persons, name of the petitioner ought to have been considered, as his name was appearing at serial No.1 in the reserve list, but the respondents have provided appointments to the persons who were standing in the reserve list lower in merit than the petitioner. In this way, according to the learned counsel, the petitioner has been subjected to glaring and hostile discrimination and he has been deprived of the fundamental right of being considered on the post of Gram Sewak.

It is submitted by the learned counsel for the respondents that the appointment to all the three persons named by the petitioner was given in consequence to the directions given by this Court in S.B.Civil Writ Petition No.1932/2000, decided on 20.9.2002. It is further submitted that the select list was prepared by the Establishment Committee of the Zila Parishad on 24.3.2000 and the same was valid for the period of one year only. It is also submitted that the petition itself is not maintainable on the ground of delay and laches as the instant petition has been filed by the petitioner after a long delay of 4

years and the select list has also expired. Not only that, even the petitioner has not made any of the candidates as party-respondents who were junior to the petitioner and have been given appointment.

Learned counsel for the petitioner submits that the case of the present petitioner is squarely covered by the Judgment given by this Court in S.B.Civil Writ Petition No.1932/2000 (Krishan Murari & Others v. The State of Rajasthan & Others), decided on September 20, 2002, wherein all the three petitioners were adjusted without disturbing any selected candidates.

Learned counsel appearing on behalf of the respondents does not dispute the position.

Thus, keeping in view of the judgment given in S.B.Civil Writ Petition No.1932/2000 (Krishan Murari & Others v. The State of Rajasthan & Others), and the fact that the persons, junior to the petitioners, have been offered appointment, the petitioner can also be adjusted without disturbing any selected candidates, the instant petition is allowed. Respondents No.1 to 3 are directed to offer appointment to the petitioner within a period of two months from the date of submitting a certified copy of this order by the petitioner before the Concerned Authorities.

(R.P.VYAS),J.

Scd.